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Statement of Gloria Allred

On February 4, 2022, we appeared for a court hearing in our case of Judy Huth v. Bill Cosby. We previously obtained a court order requiring Mr. Cosby to submit to a second deposition to answer specific questions he would not answer. The issue before the court was whether or not Mr. Cosby is permitted to invoke the Fifth Amendment privilege against self-incrimination at that second deposition, which we planned to take in our lawsuit against him.

Mr. Cosby argued that he is entitled to invoke the Fifth Amendment because he alleges that he might be prosecuted in part because of the numerous allegations by many women who have accused him publicly of raping and drugging them. We argued that Mr. Cosby has been the subject of unprecedented media attention since 2005, and law enforcement has had all that time to investigate allegations, yet he was only prosecuted in Pennsylvania. Our position is that Mr. Cosby has no reasonable fear of self-incrimination and even if he does have fear, fear alone of prosecution is insufficient to invoke the Fifth Amendment privilege.

Mr. Cosby also argues that the statute of limitations (the arbitrary time period set by law) for criminal prosecution has been abolished in some states and that, therefore, he might be prosecuted. We argued that the statute of limitations cannot be applied retroactively for an alleged crime that would be barred by a previous statute of limitations, because the constitution prohibits ex post facto laws. It is true that some states have abolished statutes of limitation for rape, but that should not result in the accused being afforded a lifetime pass to refuse to testify in civil lawsuits by other victims.

In addition, Mr. Cosby argued in his brief that the United States Supreme Court has not yet decided whether or not to grant the petition for the writ of certiorari filed by the prosecutor in Pennsylvania who is challenging the decision by the Pennsylvania Supreme Court which vacated the judgment of the trial court

in which the jury had found that Mr. Cosby was guilty of 3 felonies of aggravated indecent assault against Andrea Constand.

We disagree. We argued that if the U.S. Supreme Court denies review or if it affirms the decision of the Pennsylvania Supreme Court, Mr. Cosby cannot be re-prosecuted for crimes against Andrea Constand.

In the alternative, if the Pennsylvania Supreme Court decision is reversed by the U.S. Supreme Court, then Mr. Cosby reverts to the status of being a convicted felon who cannot be prosecuted for the crimes against Ms. Constand because of double jeopardy. In other words, he cannot be prosecuted twice for the same crimes.

Mr. Cosby should not be permitted to invoke the Fifth Amendment and decline to testify on account of the petition to the U.S. Supreme Court. We believe that whatever happens to the writ of certiorari pending before the U.S. Supreme Court is irrelevant to his Fifth Amendment rights, and as a result he should not be able to invoke the Fifth Amendment.

Judge Karlan listened carefully and ultimately decided that Mr. Cosby may assert the Fifth Amendment because, while some law enforcement agencies have said that they will not prosecute Mr. Cosby, they could change their minds and prosecute based on new evidence and because there are jurisdictions with no statute of limitations for rape.

As a result of Mr. Cosby's decision to refuse to answer our questions at his court ordered deposition, it is our position that he should not be permitted to testify at trial. If he tries to testify at trial, we will vigorously oppose his effort and argue that he should not be permitted to testify at all because he declined to answer previously court ordered deposition questions.

A firm trial date is now set in this case for May 9, 2022, and we are looking forward to our client, Ms. Huth, finally being able to have her day in court.

Gloria Allred
Attorney
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